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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,501	09/27/2001	Paul David Obeda	78945-19/jlo	8834
29382	7590	03/04/2005	EXAMINER	
TROPIC NETWORKS INC. DR. VICTORIA DONNELLY 135 MICHAEL COWPLAND DRIVE KANATA, ON K2M 2E9 CANADA			PASCAL, LESLIE C	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/963,501

Applicant(s)

OBEDA ET AL.

Examiner

Leslie Pascal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 3-7 and 10-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3,4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heismann et al (of record) in view of Sengupta et al (of record).

Heismann et al teach a method of determining topology of an optical WDM system which has modulating each optical channel with a respective channel identity (tagging each individual carrier with a unique low speed identifier signal), detecting the channel identities at a plurality of points (first paragraph in page 3.48) in order to provide unambiguous carrier identification in multiwavelength optical networks that allows end to end tracking as well as in-service performance monitoring (last sentence of paragraph 2 on page 3.47 and the last sentence in paragraph 1 of 3.48). Although they do not teach specifics about channel lists, they teach that each channel is monitored at various points (shown in figure 1(a) as done at X-C). Sengupta et al teach on page 50, first paragraph that each OXC broadcasts local link state information to other OXCs periodically as well as when a change occurs in topology and that each OXC can compute the path for an optical layer connection based on this information. Although he does not specifically call the link state information a "list", he teaches that his system is used with WDM. If there are plural channels that are monitored and sent to other OXCs, it would have been obvious to send such information as a list. It would appear

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that in order to identify matched pairs (which would indicate connections), the list would have to obviously compare lists and find matched pairs. It would have been obvious to use the method of Sengupta et al in order to compute the path connections of Heismann since Heismann teaches continuous tracking of the optical routing of the network, but does not teach specifics of how this is done.

3. Claims 14-16 are allowed.

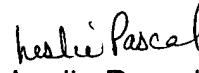
4. Claims 3-7 and 10-13 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not teach nor render obvious modifying either Heismann or Sengupta et al by 1) using variable attenuation of an optical channel in dependence upon a signal comprising the respective channel identity or 2) to include a plurality of optical filters for combining optical channels and separating optical signal to derive optical channels that can then be detected by plurality of detectors at a plurality of point to produce channel lists which are matched by a network management system that identifies pairs of channel lists to determine optical paths of the network between pairs of said points.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday, Friday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Leslie Pascal  
Primary Examiner  
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